

RECEIVED
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

'99 SEP 27 10:34
CAA-5-W-041

IN THE MATTER OF:

EP Graphics, Inc.
Berne, Indiana,

Respondent.

) Docket No.
)
) Proceeding to Assess an
) Administrative Penalty
) under Section 113(d) of the
) Clean Air Act,
) 42 U.S.C. § 7413(d)

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On 9/27/99, 1999, EPA filed the complaint in this action against Respondent EP Graphics. The Complaint alleges that the oxidizers for presses #62 and #66 at EP Graphics' Berne, Indiana facility failed to achieve a 90% destruction efficiency as required by its federally enforceable state operating permit (FESOP) and the Indiana State Implementation Plan (Indiana SIP); that its oxidizers for presses #66 and #62 failed to capture 100% of the VOC emissions in violation of its construction permit and the Indiana SIP; that E. P. Graphics failed to continuously record the catalytic oxidizer temperature for presses #62 and #66 as required by its FESOP and

the Indiana SIP; and that it failed to conduct a performance test in the time required by an information request issued by U.S. EPA pursuant to Section 114 of the Act.

Stipulations

3. EP Graphics admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

4. EP Graphics waives its right to a hearing pursuant to Section 22.15(c) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits. 64 Fed. Reg. 40138 (July 23, 1999) (Consolidated Rules), to be codified at 40 C.F.R. § 22.15(c), and waives its right to appeal pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

5. EP Graphics certifies that it is complying fully with the Indiana SIP, its amended construction permit (CP 001-4963), and its amended FESOP (F001-5957-00039) at its Berne, Indiana facility.

6. The parties consent to the terms of this Consent Agreement and Final Order (CAFO).

7. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

8. In consideration of Respondent's cooperation in remedying these violations and its agreement to perform a supplemental environmental project, EPA agrees to mitigate the proposed penalty of \$ 119,000 to \$44,000.

9. EP Graphics shall pay the \$44,000 civil penalty in three installments, plus interest at a rate of 5% per annum, on the dates and in the amounts shown on the payment schedule attached as Exhibit A. Each payment shall be by cashier's or certified check payable to the "Treasurer, United States of America," and mailed to the following address:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

10. EP Graphics shall pay a \$15 handling charge each month that any installment payment is more than 30 days past due. EP Graphics shall pay a quarterly nonpayment penalty each quarter during which an installment payment is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty shall be 10 percent of the aggregate amount of the overdue installment payment and nonpayment penalties accrued from the beginning of the quarter.

11. A transmittal letter, stating Respondent's name, complete address, the case docket number and the billing document number must accompany each payment. Respondent shall write the

case docket number and the billing document number on the face of each check. Respondent shall send copies of the checks and transmittal letters to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Cynthia Curtis, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Janice S. Loughlin, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

12. This civil penalty is not deductible for federal tax purposes.

13. If EP Graphics violates this CAFO, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

Supplemental Environmental Project

14. EP Graphics shall complete a supplemental environmental project (SEP) designed to protect the environment by replacing

the solvent based coating system currently used on press #66 with a solids-based ultra-violet system thus resulting in a 90% reduction in VOC emissions from this process.

15. Specifically, on or before May 31, 2000, E. P. Graphics shall remove the coating hardware which is currently on press #66 at it's Berne, Indiana facility and replace it with a UV Coater.

16. EP Graphics shall spend at least \$250,000 to purchase, install, and start-up this SEP.

17. EP Graphics shall continuously use or operate the UV Coater on press #66, for all press runs requiring coating, for at least 5 years following its installation.

18. EP Graphics certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. EP Graphics further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

19. EPA may inspect the facility at any time to monitor EP Graphics' compliance with this CAFO's SEP requirements.

20. EP Graphics shall submit a SEP completion report to EPA within 30 days of installation and start-up of the UV Coater. This report shall contain the following information:

- a. detailed description of the SEP as completed;
- b. description of any operating problems and the actions taken to correct the problems;

- c. itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. certification that EP Graphics has completed the SEP in compliance with this CAFO; and
- e. description of the environmental and public health benefits resulting from the SEP including documentation substantiating a 90% reduction in VOC emissions from the solvent based coating system currently used on Press #66.

21. EP Graphics shall submit all notices and reports required by this CAFO by first class mail to:

Attn: Cynthia Curtis (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

22. In each report that EP Graphics submits pursuant to this CAFO, it shall certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

23. Following receipt of the SEP completion report described in paragraph 20 above, EPA shall notify EP Graphics in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give EP Graphics 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 26.

24. If EPA exercises option b. above, EP Graphics may object in writing to the deficiency notice within 10 days of receiving the notice. The parties shall have 30 days from EPA's receipt of EP Graphics' objection to reach an agreement. If the parties cannot reach an agreement, EPA shall give EP Graphics a written decision on its objection. EP Graphics shall comply with any requirements that EPA imposes in its decision. If EP Graphics does not complete the SEP as required by EPA's decision, EP Graphics shall pay stipulated penalties to the United States under paragraph 26 below.

25. On or before June 30, 2001, and on or before June 30th of each of the following four years, EP Graphics shall submit to EPA a report indicating the total quantity of UV coating used for press 66 during the previous year and also the VOC content of that coating.

26. If EP Graphics violates any requirement of this CAFO relating to the SEP, it shall pay stipulated penalties to the United States as follows:

a. Except as provided in subparagraph b. below, if EP Graphics did not complete the SEP satisfactorily pursuant to this CAFO, it shall pay a stipulated penalty of \$ 42,000.

b. If EP Graphics did not complete the SEP satisfactorily, but EPA determines that EP Graphics: (i) made good faith and timely efforts to complete the SEP; and (ii) certified, with supporting documents, that it spent at least 90 percent of the required amount on the SEP, it shall not be liable for any stipulated penalty.

c. If EP Graphics satisfactorily completed the SEP, but spent less than 90 percent of the required amount on the SEP, it shall pay a stipulated penalty of \$ 4,200.

d. If EP Graphics failed to submit timely the SEP completion report required by paragraph 20 above, it shall pay a stipulated penalty of \$ 500 for each day after the report was due until it submits the report.

e. If EP Graphics failed to submit timely any other report required by paragraph 25 above, it shall pay a stipulated penalty of \$ 500 for each day after the report was due until it submits the report.

27. EPA's determinations of whether EP Graphics satisfactorily completed the SEP and whether it made good faith, timely efforts to complete the SEP shall bind EP Graphics.

28. EP Graphics shall pay the stipulated penalties within 15 days of receiving EPA's written demand for the penalties. EP Graphics shall use the method of payment specified in paragraph 9

above and it shall pay interest, handling charges, and nonpayment penalties on any overdue amounts.

29. Any public statement that EP Graphics makes referring to the SEP shall include the following language, "EP Graphics undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against EP Graphics for violations of the Indiana SIP."

General Provisions

30. This CAFO settles EPA's claims for civil penalties for the violations alleged in the complaint.

31. Nothing in this CAFO shall restrict EPA's authority to seek EP Graphics' compliance with the Act and other applicable laws and regulations.

32. This CAFO does not affect EP Graphics' responsibility to comply with the Act and other applicable federal, state and local laws and regulations.

33. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine EP Graphics' "full compliance history" pursuant to Section 113(e) of the Act, 42 U.S.C. § 7413(e).

34. The terms of this CAFO bind EP Graphics and its successors and assigns.

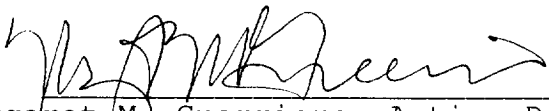
35. Each person signing this Consent Agreement certifies that he or she has the authority to sign this Consent Agreement for the party whom he or she represents and to bind that party to its terms.

36. Each party shall bear its own costs and fees in this action.

37. This CAFO constitutes the entire agreement between the parties.

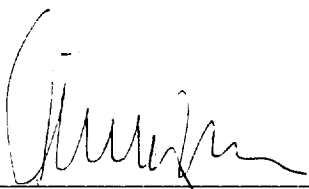
**U.S. Environmental Protection
Agency, Complainant**

Date: Sept. 23, 1979

By: 
Margaret M. Guerriero, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

EP Graphics, Inc., Respondent

Date: 9-16-79

By: 
Nicholas Smith
Chief Operating Officer
EP Graphics, Inc.

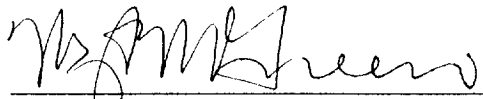
CONSENT AGREEMENT AND FINAL ORDER
EP Graphics
Docket No.

Final Order

It is ordered as agreed to by the parties and as stated in the Consent Agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This Order disposes of the matter pursuant to Section § 22.18(c) of the Consolidated Rules.

Date:

Sept. 24, 1999

fr 

Francis X. Lyons
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

7-041

RECORDED

In the Matter of E.P. Graphics Inc.

Docket No: ~~EPX-5-99~~-041

'99 SEP 27 10:34

CERTIFICATE OF FILING AND MAILING

I, Betty Williams, do hereby certify that I hand delivered the original of the foregoing Administrative Complaint and the Consent Agreement and Consent Order to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed accurate and true copies, along with a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22, and a copy of the Penalty Policy (described in the complaint) by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing it in the custody of the United States Postal Service addressed as follows:


Carl H. Muselman
Registered Agent For
EP Graphics Company
153 S. Jefferson
Berne, Indiana

I also certify that a copy of the Administrative Complaint and Consent Order were sent by First Class Mail to:

Felicia George, Assistant Commissioner
Office of Enforcement
Indiana Department of Environmental Management
100 North Senate
Indianapolis, Indiana 46206-6015

Phil Perry, Acting Chief
Compliance Branch
Indiana Department of Environmental Management
100 North Senate, Room 1001
Indianapolis, Indiana 46206-6015

on the 27 Day of September 1999.


Betty Williams, Secretary
AECAS (IL/IN)
CAA-5-~~99~~-041

CERTIFIED MAIL RECEIPT NUMBER: P140 8954SD